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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,576	03/22/2000	Peter W. Hamilton	7995	8660

27752 7590 12/19/2003

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/532,576

Applicant(s)

HAMILTON ET AL.

Examiner

Alicia Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-18, 20-40 and 42-62 is/are pending in the application.
- 4a) Of the above claim(s) 58-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-16, 18, 20-35, 39, 40, 42-53, 56 and 57 is/are rejected.
- 7) ☒ Claim(s) 17, 36-38, 54 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **RESPONSE TO AMENDMENT**

### ***Request for Continued Examination***

1. The Request for Continued Examination (RCE) under 37 CFR 1.53 (d) filed on September 4, 2003 is acceptable and a RCE has been established. An action on the RCE follows.
2. Claims 1-4, 6-18, 20-40 and 42-62 are pending in the application, claims 58-62 are withdrawn from consideration due to Applicant's election in paper #10 filed September 6, 2002 in response to the restriction in paper #6 mailed January 29, 2002. Claims 5, 19 and 41 were cancelled in paper #12, filed March 31, 2003.

### ***Drawings***

3. The drawings were received on August 8, 2003. These drawings are acceptable.

### **WITHDRAWN REJECTIONS**

4. The 35 U.S.C. §103 rejection of claims 1-4 and 6-57 as over Calhoun et al. (5,589,246) in view of Blanc-Brude (5,906,883) of record in paper #13, pages 2-4, paragraph #2 have been withdrawn due to Applicant's amendment in paper #14, filed August 5, 2003.
5. The 35 U.S.C. §103 rejection of claims 1-4 and 6-57 as over Hamilton et al. (5,589,246) in view of Blanc-Brude (5,906,883) of record in paper #13, pages 4-6, paragraph #3 have been withdrawn due to Applicant's amendment in paper #14, filed August 5, 2003.

***NEW REJECTIONS***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Examiner's Comment***

7. Claim 1 has been amended to now recite "a permeable substrate," claim 21 now recites "a permeable film" and claim 40 now recites "a porous substrate layer." The terms "permeable" and "porous" are taken to relate to the ability of material to admit fluids, preferably gas, to pass through its pores or interstices, see Applicant's specification page 15, lines 27-31. Furthermore, for purposes of examination, the terms "porous," "permeable," "perforated," "discontinuous" or "apertured" are considered synonymous, see Applicant's specification the passage bridging page 15, line 13 and page 16, line 28.

***Claim Objections***

8. Claim 29 is objected to because of the following informalities: "about 0.0007 inches" should be "about 0.0007 square inches," because the claim is claiming area. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 14 is dependent upon claim 20. Claim 20 recites "wherein the substrate further comprises air vent channels," claim 14 recites "wherein said air venting channel is at least one aperture disposed within a plurality of said protrusions." This is confusing and unclear because the air vents are on the substrate and the protrusions are on the film. It is unclear if Applicant is trying to claim that the air vents are on the film too or if the substrate has protrusions. Also, claim 20 recites "channels" [emphasis added], claim 14 recites "channel." Clarification is requested.

***Claim Rejections - 35 USC § 103***

10. Claims 1-4, 5-11, 13, 16, 18, 20, 40, 42-49, 51-53, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al. (U.S. Patent No. 5,662,758) in view of Hamilton et al. (U.S. Patent No. 5,968,633).

Regarding Applicant's claims 1, 2, 5-7, 9-11, 13, 16, 18, 20, 40, 42, 45, 47-49, 51-53, 56 and 57, Hamilton '758 discloses an adherent film comprising at least one adhesive, non-raised region protected from inadvertent adherence to a contact surface, the sheet comprising a film having a front face and back face, the front face having a plurality of collapsible, non-adhesive protrusions extending outwardly from the front face and the adhesive, non-raised region disposed between the protrusions (*col. 5, line 64 through col. 6, line 13 and figure 10*).

Hamilton '758 discloses that the protrusions have a base diameter of about 0.015 inches to about 0.03 inches that gives a surface area from about 0.0002 inches to about 0.0007 square inches and a center-to-center distance from about 0.03 inches to about 0.06 inches (*col. 6, lines 21-27*) and from the figures it can be seen that the protrusions have a dome-shape. Their

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disclosure reads on Applicant's claimed protrusions having a base diameter from about 0.03 to 0.1 inches, a base surface area from about 0.0007 inches to about 0.008 square inches and a center-to-center distance from about 0.05 inches to about 0.15 inches.

Since, the protrusions of Hamilton '758 are within the claimed ranges for the base diameter, base surface area and center-to-center distance for the protrusions it would be expected that they would have the number density of protrusion, i.e. from about 10 to about 175 protrusions per square inch, from about 50 to about 150 protrusions per square inch and from about 60 to about 90 protrusions per square inch.

Hamilton '758 fails to disclose a permeable substrate bonded to the back face of the film.

Hamilton '633 teaches an adherent sheet that is almost identical to that of Hamilton '758 and further comprises adhesive in the wells of the protrusions of the back face of the film and porous fabric material laminated to the back surface (*col. 13, lines 16-43 and figure 10*). The porous fabric reads on the claimed limitation "substrate comprising air vent channels."

Hamilton '758 and Hamilton '633 are analogous because they both disclose adherent sheets such as tapes and labels.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add adhesive and a protective porous fabric material as taught by Hamilton '633 to the back side of the film of Hamilton '758 in order to have the adhesive article of Hamilton '758 be adhesive on both sides and have a protective sheet over the adhesive before use. One of ordinary skill in the art would have been motivated to put adhesive on the back side of Hamilton '758 so that the film would be adherent on both side. Furthermore, one would be motivated to put the porous fabric on the back side in order to protect the adhesive before use.

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Regarding Applicant's claims 3, 4, 43 and 44, Hamilton '758 discloses that the adherent sheet will not collapse under a compressive force of 0.4 pounds per square inch (psi) (*col. 8, lines 2-5*). Therefore, the adherent sheet require a compressive force greater than 0.4 pounds per square inch to collapse the protrusions, which reads on Applicant's limitations wherein a compressive force of at least about 0.1 psi or 0.5 to 15 pounds per square inch for the same purpose.

Regarding Applicant's claims 8 and 46, Hamilton '758 discloses the protrusions have a height from about 0.004 inches to about 0.012 inches (*col. 6, lines 25-26*), which reads on Applicant's protrusions having a height from about 0.01 inches to about 0.04 inches.

11. Claims 12 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al. (U.S. Patent No. 5,662,758) in view of Hamilton et al. (U.S. Patent No. 5,968,633) as applied above, and further in view of Hamilton et al. (U.S. Patent No. 5,871,607).

Hamilton '758 and Hamilton '633 are relied upon as described above.

Hamilton '758 and Hamilton '633 fail to disclose the film is high density polyethylene.

Hamilton '607 teaches an adherent sheet that is almost identical to that of Hamilton '758 and Hamilton '633 (*col. 11, lines 13-20 and figure 11*). Hamilton '607 further teaches the film is high density polyethylene having thickness about 0.0003 inches (*col. 9, lines 20-21*).

Hamilton '758, Hamilton '633 and Hamilton '607 are analogous because they all disclose adherent sheets such as tapes and labels.

*and* It would have been obvious to one of ordinary skill in the art at the time of the invention to use a high density polyethylene film as taught by Hamilton '607 as the film <sup>*in articles suggested by*</sup> the combination of Hamilton '758 and Hamilton '633 in order to lower cost of the article. One of ordinary skill in

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the art would have been motivated to use high density polyethylene because it is a low cost and easy to form polyolefin film (see *Hamilton '607 col. 9, lines 41-42*).

12. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Hamilton et al.* (U.S. Patent No. 5,871,607) in view of *Sorensen et al.* (U.S. Patent No. 4,889,234).

*Hamilton '607* discloses pressure sensitive adhesive articles such as tapes, labels, etc. (*col. 1, lines 33-42*).

Regarding Applicant's claim 21, *Hamilton '607* discloses an adherent sheet material comprising "[a]dhesive" (*col. 4, line 29*) non-raised region protected from inadvertent adherence to a contact surface (*col. 17, lines 41-43*), the sheet material comprising an apertured film, which makes the film permeable/porous, having a front and back face (*col. 13, lines 13-20 and figure 11*). The front face has a plurality of collapsible, non-adhesive protrusions extending outwardly from said front face and adhesive, non-raised region disposed between the protrusions (*col. 17, lines 41-62; col. 13, lines 13-20 and figure 11*).

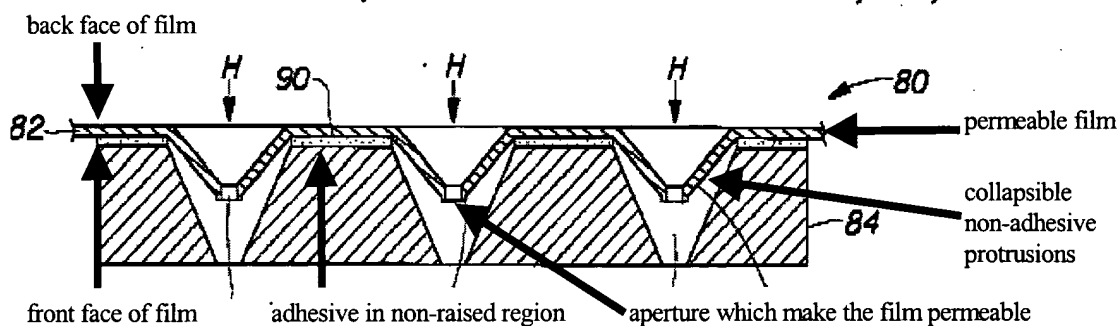


Fig. 11 *skt*

*Hamilton '607* discloses that the protrusions have a base diameter of about 0.015 inches to about 0.03 inches, which using the formula for the area of a circle ( $A=0.25 \cdot D^2 \cdot \Pi$ ), gives a surface area from about 0.0002 inches to about 0.0007 square inches and has a center-to-center distance from about 0.03 inches to about 0.06 inches (*col. 9, lines 5-19*). From the figures it can



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be seen that the protrusions have a dome-shape. This reads on applicant's claimed protrusions having a base diameter from about 0.03 to 0.1 inches, a base surface area from about 0.0007 inches to about 0.008 square inches and a center-to-center distance from about 0.05 inches to about 0.15 inches. Since, the protrusions of Hamilton are within the claimed ranges for the base diameter, base surface area and center-to-center distance for the protrusions it would be expected that they would have the number density of protrusion, i.e. from about 10 to about 175 protrusions per square inch.

Hamilton '607 fails to disclose that the adhesive non-raised region has a peel force of at least about 0.3 pounds per linear inch.

Sorensen discloses pressure sensitive adhesive articles such as labels, etc. (*col. 1, line 11*).

Sorensen discloses a label with repositionable/removable adhesive (*col. 2, lines 25-29*). Sorensen further discloses that its solvent-type removable adhesives have a peel force of approximately 0.7 pounds force (*col. 6, line 42*), which is deemed equivalent to 0.7 pounds per linear inch, and its hot melt removable self adhesives have a peel force of approximately 0.9 pounds force, which is deemed equivalent to 0.9 pounds per linear inch (*col. 6, line 44*). This removable self-adhesive allows the label to be removed without affecting the structural integrity of the label or the underlying surface, so that it may be peeled back and re-used (*col. 1, lines 44-48*).

Hamilton and Sorensen are analogous because they both disclose adhesive article such as labels.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to use the removable adhesive of Sorensen with a peel force of at least about 0.3 pounds per linear inch to make Hamilton's adhesive article in order that the label may be peeled back and re-used.

One of ordinary skill in the art would have been motivated to the removable adhesive with a peel force of at least about 0.3 pounds per linear inch because Hamilton's article would be removable without affecting the structural integrity of the film (*Sorensen, col. 1, lines 44-48*). It is desirable to have removable adhesive because it allows the article to be repositioned and re-used.

13. Claims 22-35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al. (U.S. Patent No. 5,871,607) in view of Sorensen et al. (U.S. Patent No. 4,889,234) as applied above, and further in view of Blanc-Brude (U.S. Patent No. 5,906,883).

Hamilton and Sorensen are relied upon as described above.

Hamilton and Sorensen fail to disclose the adherent sheet material further comprising a substrate layer.

Regarding Applicant's claims 22, 23 and 35, Blanc-Brude discloses an adhesive sheet comprising a film having a front and back face, where the front face has a plurality of collapsible, non-adhesive protrusions extending outwardly from the front face and adhesive in the non-raised regions disposed between the protrusions (*col. 2, lines 23-37 and figure 2*). The adhesive sheet further comprises an external sheet (substrate), such as decorative wallpaper (*col. 2, line 43*), adhesively bonded to the back face of the film (*col. 2, lines 45-49 and figure 2*).

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Hamilton, Sorensen and Blanc-Brude are analogous because they all disclose adhesive articles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add an external sheet, such as wall paper, as taught by Blanc-Brude, to the back face of Hamilton's web in order to add a decorative appearance to Hamilton.

One of ordinary skill in the art would have been motivated to add decorative wallpaper to Hamilton's adhesive article because it would increase the ascetic appearance of the article when used for masking walls (*Blanc-Brude, col. 2, lines 42-49*). A decorative appearance is desirable to have in order to be more pleasing the user.

Regarding Applicant's claims 24 and 25, Hamilton incorporates by reference application 08/584,638, which is now US Patent No. 5,662,758 (*col. 2, lines 47-61*), referred to here after as Hamilton '758. Hamilton '758 discloses that the adherent sheet will not collapse under a compressive force of 0.4 pounds per square inch (psi) (*col. 8, lines 2-5*). Therefore, the adherent sheet require a compressive force greater than 0.4 pounds per square inch to collapse the protrusions, which reads on Applicant's limitations wherein a compressive force of at least about 0.1 psi or 0.5 to 15 pounds per square inch for the same purpose.

Regarding Applicant's claims 26, 27, and 29-31, Hamilton '607 discloses that the protrusions have a base diameter of about 0.015 inches to about 0.03 inches, which using the formula for the area of a circle ( $A=0.25*D^2*\Pi$ ), gives a surface area from about 0.0002 inches to about 0.0007 square inches and has a center-to-center distance from about 0.03 inches to about 0.06 inches (*col. 9, lines 5-19*). From the figures it can be seen that the protrusions have a dome-shape. This reads on applicant's claimed protrusions having a base diameter from about 0.03 to

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0.1 inches, a base surface area from about 0.0007 inches to about 0.008 square inches and a center-to-center distance from about 0.05 inches to about 0.15 inches. Since, the protrusions of Hamilton are within the claimed ranges for the base diameter, base surface area and center-to-center distance for the protrusions it would be expected that they would have the number density of protrusion, i.e. from about 50 to about 150 protrusions per square inch or from about 60 to about 90 protrusions per square inch.

Regarding Applicant's claim 28, Hamilton '607 discloses the protrusions having a height from about 0.004 inches to about 0.012 inches (*col. 9, lines 17-19*), which reads on Applicant's limitation "protrusions having a height from about 0.01 inches to about 0.04 inches."

Regarding Applicant's claim 32, Hamilton '607 discloses the film is high density polyethylene having thickness about 0.0003 inches (*col. 9, lines 20-21*).

Regarding Applicant's claims 33, 34 and 39, Hamilton '607 discloses that the film has apertures (*col. 13, lines 12-20*), which reads on Applicant's air venting channels.

***Potentially Allowable Subject Matter***

14. Claims 17, 36-38, 54 and 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These claims are potentially allowable because they recite features that are not taught or suggested in the prior art of record.

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***ANSWERS TO APPLICANT'S ARGUMENTS***

15. Applicant's arguments in paper #14, filed August 5, 2003, regarding the previous rejections of record have been considered but are moot due to the new grounds of rejection.

***Conclusion***

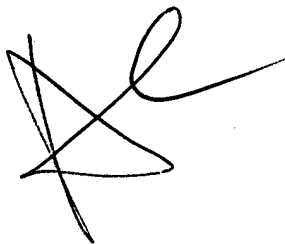
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays


If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Harold Pyon can be reached by dialing (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for all communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0651.

ac

12/15/03



  
**SANDRA M. NOLAN**  
**PRIMARY EXAMINER**